

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1101 of 1994

to

FIRST APPEAL No 1116 of 1994

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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SPECIAL LAND ACQ. OFFICER

Versus

JAGDISH SHANTILAL BAROT

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Appearance:

Mr. S.J. Dave, AGP for appellant.

MR NITIN M AMIN for Respondents.

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CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 06/04/98

COMMON ORAL JUDGEMENT (Per Y.B. Bhatt J.)

1. On the joint request of learned counsel for the respective parties, these appeals are taken up for final hearing today.

2. These are first appeals filed on behalf of the State of Gujarat under section 54 of the Land Acquisition Act read with section 96, CPC, wherein the appellant challenges the common judgement and awards passed by the Reference Court under section 18 of the said Act.

3. The pertinent facts, in brief, are to the effect that the lands in question were acquired for the SIPPU Scheme (Mukteshwar Reservoir Scheme) under a notification issued under section 4 of the said Act dated 13th March 1981. After following the due procedure, the Special Land Acquisition Officer declared his award on 20th September 1986 in respect of the present lands, which are located in the sim of village Dhulana, Taluka Kheralu, District Palanpur.

4. The original claimants-land holders not having accepted the awards, preferred References under section 18 of the said Act, which came to be heard and decided by the Reference Court whereby the latter determined the market value of the acquired land at Rs.8/- per square meter. Hence the present appeals by the State.

5. As a result of the hearing and discussion, it appears that it shall not be necessary for us to discuss the evidence in detail. In view of the approach we propose to adopt, learned counsel for the respective parties also agree that a discussion of the evidence on the record of the case is not necessary.

6. Our attention has been drawn to two prior decisions, both being Division Bench decisions of this court, which have a direct relevance and bearing on the determination of the market value in the instant acquisition.

7. The first decision under consideration is rendered by a Division Bench (Coram: B.C. Patel & N.N. Mathur J.) in First Appeal Nos.1365/94 to 1424/94, decided on 13th September 1995. The lands under acquisition in the said decision were in village Pandva, which is adjacent to village Chelana, which is in the close proximity of instant village viz. Dhulana. The relevant notification under section 4 in this decision was published on 13th November 1980, whereas the notification in the instant case is dated 13th March

1981, which is hardly four months later on. The market value of the acquired lands in the said decision was determined by the Bench at Rs.5/- per square meter. It, therefore, appears that a similar market value is determined in the instant case would be reasonable. This proposition is not resisted by learned counsel for the respondents-original claimants.

8. Another decision relevant for our purpose is rendered by a Division Bench (Coram: B.N. Kirpal, C.J. as he then was, and R.K. Abichandani J.) of this Court in First Appeal Nos.586/94 to 613/94, decided on 28th July 1994. The lands under consideration in the said decision were of village Kotada, which are also in the close proximity of the instant village Dhulana. In the said judgement of the Division Bench under consideration the market value of the lands was determined at Rs.5/- per square meter, and looking to the fact that the instant notification is about a year and half prior to the notification relevant in the said discussion, a market value in respect of the instant lands, if determined at Rs.5/- per square meter cannot certainly be said to be inadequate.

9. It is also common ground on both sides that a number of villages were acquired for the very same project, and a large number of decisions have been rendered by different Benches of this court from time to time. However, what is equally important and relevant is that it is generally conceded that all villages are located within a radius of 10 to 15 kilometers, and that they bear the common and or same fertility and that except where specifically asserted, have no distinguishing features which would justify a different market value.

10. On the facts and circumstances of the present case, we hold and direct that the lands under acquisition in the instant case shall be valued at Rs.5/- per square meter instead of Rs.8/- per square meter as determined by the Reference Court. To this extent, therefore, the impugned judgement and awards require to be modified and accordingly stand modified. The rest of the awards are maintained.

11. No other contentions have been raised by either side.

12. These appeals are, therefore, partly allowed with no order as to costs.

13. The appellant-State is directed to deposit with the Reference Court separately in each Land Reference Case, the amount due to the claimants-land holders under the present decree, within a period of four months from the drawing up of the present decree.

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